

AMENDED IN SENATE AUGUST 7, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1492

Introduced by Committee on Budget (Blumenfield (Chair), Alejo, Bonilla, Brownley, Buchanan, Butler, Cedillo, Chesbro, Dickinson, Feuer, Gordon, Huffman, Mitchell, Monning, and Swanson)

January 10, 2012

~~An act relating to the Budget Act of 2012. An act to add Section 13009.2 to the Health and Safety Code, and to amend Section 4590 of, to add Article 9.5 (commencing with Section 4629) to Chapter 8 of Part 2 of Division 4 of, and to repeal Section 4629.10 of, the Public Resources Code, relating to forest resource management, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1492, as amended, Committee on Budget. Budget Act of 2012.

(1) Existing law, with certain exceptions, makes any person who negligently or in violation of the law sets a fire, or who fails or refuses to correct a fire hazard prohibited by law, liable for the fire suppression costs and for the costs of providing rescue or emergency medical services, and provides for collection of the charge. Under existing law, public agencies participating in fire suppression, rescue, or emergency medical services may bring a civil action to recover costs incurred by those agencies.

This bill would provide that, in a civil action by a public agency to recover damages caused by a fire, pecuniary damages must be quantifiable and not unreasonable in relation to the prefire fair market

value of the property, taking into consideration the ecological and environmental value of the property to the public. The bill would limit the pecuniary damages that the public agency may recover to specified ecological and environmental damages and certain restoration and rehabilitation costs, replacement or acquisition costs, or diminution in value of property as a result of the fire, including lost timber value, and short-term costs related to immediate damages resulting from the fire. Further, the bill would prohibit a public agency from seeking to enhance the claim for environmental damages under other provisions of law permitting civil damages for injuries to trees and timber.

(2) The Z'Berg-Nejedly Forest Practice Act of 1973 prohibits a person from conducting timber operations, as defined, unless a timber harvesting plan prepared by a registered professional forester has been submitted to, and is approved by, the Department of Forestry and Fire Protection.

The act provides that a timber harvesting plan approved on or after January 1, 2012, is effective for a period of not more than 3 years and may be extended by amendment for a one-year period, up to a maximum of 2 one-year extensions if 2 requirements are met. The act provides that a plan that is approved on or after January 1, 2010, to December 31, 2011, inclusive, may be extended by amendment for a 2-year period, up to a maximum of 2 2-year extensions. The act requires the notice of extension to include the circumstances that prevented a timely completion of the work under the plan and an agreement to comply with the specified law, rules, and regulations as they exist on the date the extension notice is filed.

This bill would provide instead that a timber harvesting plan approved on or after July 31, 2012, would be effective for a period of not more than 5 years unless extended and would instead authorize the extension of the plan by amendment for a 2-year period. The bill would provide instead that a timber harvesting plan approved between January 1, 2010, and August 31, 2012, inclusive, may be extended by amendment for a 2-year period, up to a maximum of 2 2-year periods and would require the notice of extension for that plan to be provided to the department not sooner than 140 days, but at least 10 days, prior to the expiration date of the plan.

(3) This bill would establish the Timber Regulation and Forest Restoration Fund in the State Treasury, and would require that all revenues received from a specified assessment described in (4) and (5) below imposed on the retail sale of lumber products, as defined, and

engineered wood products, as defined, less amounts deducted for refunds and reimbursements, be deposited into the fund. The bill would require that moneys deposited into the fund be expended, upon appropriation by the Legislature, for specified administrative costs, and for purposes relating to the regulatory activities of the department and other state and local agencies involved in the management of forest lands, and the costs of managing forest resource programs in the state, for certain grants to state and local public agencies, qualified nonprofit organizations, and recognized Indian tribes for fire protection and suppression, and for grants to fund restoration on timberland, as prescribed.

This bill would require the State Board of Forestry and Fire Protection, on or before October 1, 2012, to adopt a regulation that interprets and makes specific the lumber products and the engineered wood products that the board determines shall be subject to the lumber products assessment imposed by the bill, as prescribed.

The bill would require the Secretary of the Natural Resources Agency, on or before January 10, 2013, and each January 10 thereafter, in conjunction with the 2014–15 Governor’s Budget and the Governor’s Budgets thereafter, in consultation with the Secretary for Environmental Protection, to submit a report to the Joint Legislative Budget Committee on the activities of all state departments, agencies, and boards relating to forest and timberland regulation. The bill would require the Secretary of the Natural Resources Agency, no later than March 1, 2014, as part of the 2014–15 budget process, to submit a report to the Joint Legislative Budget Committee and relevant legislative policy committees, including a review of the aforementioned report.

(4) Existing law imposes a state sales and use tax on retailers measured by the gross receipts from the sale of tangible personal property sold at retail in this state, and a use tax on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer for storage, use, or other consumption in this state, at a prescribed rate. Existing law imposes various other taxes, including taxes on the privilege of engaging in certain activities. The Fee Collection Procedures Law, a violation of which is a crime, provides procedures for the collection of fees.

This bill would, on and after January 1, 2013, in addition to any other sales and use taxes imposed by law, impose an assessment on a person who purchases a lumber product, as defined, or an engineered wood product, as defined, in this state, at the rate of 1% of the sales price.

This bill would require the tax to be administered by the State Board of Equalization, as prescribed, and would require a retailer to collect the assessment from the person and remit the amounts collected pursuant to the procedures set forth in the Fee Collection Procedures Law. By expanding the application of the Fee Collection Procedures Law, a violation of which is a crime, this bill would impose a state-mandated local program.

(5) Existing law requires the Department of Forestry and Fire Protection to invite, consider, and respond in writing to comments received from public agencies, including the Department of Fish and Game, to which a timber harvest plan has been transmitted, and to consult with these agencies at their request.

This bill would appropriate the sum of \$1,500,000 from the Timber Regulation and Forest Restoration Fund to the Department of Fish and Game to be used for the purposes of supporting the department's review of timber harvest plans.

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(7) This bill would declare that it is to take effect immediately as an urgency statute.

~~*This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.*~~

~~*Vote: majority $\frac{2}{3}$. Appropriation: no-yes. Fiscal committee: no-yes. State-mandated local program: no-yes.*~~

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 13009.2 is added to the Health and Safety
- 2 Code, to read:
- 3 13009.2. (a) In a civil action by a public agency seeking
- 4 damages caused by a fire, pecuniary damages must be quantifiable
- 5 and not unreasonable in relation to the prefire fair market value
- 6 of the property, taking into consideration the ecological and
- 7 environmental value of the property to the public. The only
- 8 recoverable pecuniary damages shall be:

1 (1) *Either the restoration and rehabilitation costs associated*
2 *with bringing the damaged property back to its preinjured state*
3 *or replacement or acquisition costs of equivalent value, or*
4 *diminution in value of property as a result of the fire, including*
5 *lost timber value, or some combination thereof.*

6 (2) *Short-term costs related to immediate damages suffered as*
7 *a result of the fire, such as burned area emergency response costs,*
8 *costs associated with discrete restoration activities related to*
9 *repair and replacement of real property improvements, and*
10 *remediation and eradication costs relative to invasive species and*
11 *any other nonnative infestation caused by or exacerbated by sudden*
12 *burn area conditions.*

13 (b) *In addition to the damages authorized by subdivision (a), a*
14 *public agency may also recover ecological and environmental*
15 *damages caused by the fire, if those damages are quantifiable,*
16 *and are not redressed by the damages set forth in subdivision (a),*
17 *taking into consideration the ecological and environmental value*
18 *of the property to the public. Ecological and environmental*
19 *damages may include:*

20 (1) *Lost recreational value.*

21 (2) *Lost interim use.*

22 (3) *Lost historical and archeological value.*

23 (4) *Damage to wildlife, wildlife habitat, water or soil quality,*
24 *or plants.*

25 (5) *Damage to any rare natural features of the property.*

26 (6) *Lost aesthetic value.*

27 (c) *In assessing the reasonableness of damages under*
28 *subdivision (b), the prefire fair market value of the property is*
29 *relevant and one factor to be considered, in addition to the other*
30 *factors listed in subdivision (b).*

31 (d) *A public agency plaintiff who claims environmental damages*
32 *of any kind under subdivision (a) or (b) shall not seek to enhance*
33 *any pecuniary or environmental damages recovered under this*
34 *section. This section is not intended to alter the law regarding*
35 *whether Section 3346 of the Civil Code or Section 733 of the Code*
36 *of Civil Procedure can be used to enhance fire damages, but this*
37 *section does confirm that if a public agency claims environmental*
38 *damages under subdivision (a) or (b), it shall not seek to enhance*
39 *any damages recovered under this section for any reason, and*
40 *shall not use Section 3346 of the Civil Code or Section 733 of the*

1 *Code of Civil Procedure to do so, regardless of whether those*
2 *sections might otherwise apply. This section is not intended to*
3 *limit or change the ability of a public agency to recover costs*
4 *arising from a fire as provided in Sections 13009 and 13009.1.*

5 *(e) For purposes of this section, the term “public agency” means*
6 *the United States of America or any political subdivision thereof,*
7 *the State of California, any city, county, district, public agency,*
8 *or any other public subdivision of the state.*

9 *(f) This section shall apply only to a civil action filed on or after*
10 *the effective date of the act adding this section.*

11 *SEC. 2. Section 4590 of the Public Resources Code is amended*
12 *to read:*

13 4590. (a) (1) A timber harvesting plan approved on or after
14 ~~January~~ July 1, 2012, is effective for a period of not more than
15 ~~three~~ five years, unless extended pursuant to paragraph (2).

16 (2) A timber harvesting plan, on which timber operations have
17 commenced but not been completed, may be extended by
18 amendment for a ~~one-year~~ two-year period in order to complete
19 the timber operations, ~~up to a maximum of two 1-year extensions;~~
20 if both of the following occur:

21 (A) Good cause is shown.

22 (B) All timber operations are in conformance with the plan, this
23 chapter, and all applicable rules and regulations, upon the filing
24 of the notice of extension as required by this section.

25 (b) The extension shall apply to any area covered by the plan
26 for which a report has not been submitted under Section 4585. The
27 notice of extension shall be provided to the department not sooner
28 than 30 days, but at least 10 days, prior to the expiration date of
29 the plan. The notice shall include the circumstances that prevented
30 a timely completion of the timber operations under the plan and,
31 consistent with Section 4583, an agreement to comply with this
32 chapter and the rules and regulations of the board as these exist
33 on the date the extension notice is filed.

34 (c) Stocking work may continue for more than the effective
35 period of the plan under subdivision (a), but shall be completed
36 within five years after the conclusion of other work.

37 (d) (1) A timber harvesting plan that is approved on or after
38 January 1, 2010, to ~~December 31, 2011~~ August 31, 2012, inclusive,
39 may be extended by amendment for a two-year period in order to
40 complete the timber operations, up to a maximum of two 2-year

1 extensions, if the plan complies with subparagraphs (A) and (B)
2 of paragraph (2) of subdivision (a) and the notice of extension,
3 pursuant to subdivision (b), includes written certification by a
4 registered professional forester that neither of the conditions in
5 subdivision (e) has occurred.

6 *(2) Notwithstanding the notice provision of subdivision (b), for*
7 *the purposes of this subdivision, the notice of extension shall be*
8 *provided to the department not sooner than 140 days, but at least*
9 *10 days, prior to the expiration date of the plan.*

10 (e) The department shall not approve an extension pursuant to
11 subdivision (a) or (d) if either of the following has occurred:

12 (1) Listed species, as defined in Article 1 (commencing with
13 Section 2050) of Chapter 1.5 of Division 3 of the Fish and Game
14 Code or the federal Endangered Species Act (16 U.S.C. Sec. 1531
15 et seq.), have been discovered in the logging area of the plan since
16 approval of the timber harvesting plan.

17 (2) Significant physical changes to the harvest area or adjacent
18 areas have occurred since the timber harvesting plan's cumulative
19 impacts were originally assessed.

20 (f) An extension of a timber harvesting plan on which either of
21 the conditions in subdivision (e) has occurred may be obtained
22 only pursuant to Section 1039 of Title 14 of the California Code
23 of Regulations. ~~Notwithstanding the notice provision of subdivision~~
24 ~~(b), for purposes of this subdivision the notice of extension shall~~
25 ~~be provided to the department, not sooner than 140 days, but at~~
26 ~~least 10 days, prior to the expiration date of the plan.~~

27 ~~(g) This section shall become operative on January 1, 2012.~~

28 SEC. 3. Article 9.5 (commencing with Section 4629) is added
29 to Chapter 8 of Part 2 of Division 4 of the Public Resources Code,
30 to read:

31
32 *Article 9.5. Timber Regulation and Forest Restoration Fund*

33
34 *4629. The Legislature finds and declares all of the following:*

35 (a) *A thriving in-state forest products sector provides public*
36 *benefits, including employment opportunities in both rural and*
37 *urban areas, and economic development for rural communities.*

38 (b) *Enabling continued economically viable production of forest*
39 *products can help to protect the state's forest lands from*
40 *conversion to other uses.*

1 (c) *The state's forest practice regulations provide for*
2 *environmental protection of the state's air, water, habitat, and*
3 *soil resources.*

4 (d) *Consumers of wood products in the state currently do not*
5 *directly pay for the state's forest practice program and the costs*
6 *of protecting the state's natural resources.*

7 (e) *Current in-state producers of wood products already bear*
8 *a significant cost of conforming with the state's environmental*
9 *laws, which economically disadvantages those producers relative*
10 *to out-of-state production.*

11 (f) *Conforming with the state's environmental laws ensures that*
12 *wildlife, habitat, clean air, forest, and water quality receive some*
13 *protection.*

14 4629.1. *The Legislature further finds that the state's forest*
15 *practice regulatory program needs to develop adequate*
16 *performance measures to provide transparency for both the*
17 *regulated community and other stakeholders.*

18 4629.2. *In enacting this article, it is the intent of the Legislature*
19 *to accomplish all of the following:*

20 (a) *Promote and encourage sustainable forest practices*
21 *consistent with provisions of this chapter in a manner consistent*
22 *with other laws, including, but not limited to, the Timberland*
23 *Productivity Act of 1982 (Article 1 (commencing with Section*
24 *51100) of Chapter 6.7 of Part 1 of Division 1 of Title 5 of the*
25 *Government Code), the California Environmental Quality Act*
26 *(Division 13 (commencing with Section 21000)), the*
27 *Porter-Cologne Water Quality Act (Chapter 1 (commencing with*
28 *Section 13000) of Division 7 of the Water Code), and the California*
29 *Endangered Species Act (Article 3 (commencing with Section 2080)*
30 *of Chapter 1.5 of Division 3 of the Fish and Game Code).*

31 (b) *Ensure continued sustainable funding for the state's forest*
32 *practice program to protect the state's forest resources, and*
33 *replace the current piecemeal funding structure with a single*
34 *funding source.*

35 (c) *Support in-state production of timber within the state's*
36 *environmental standards, and promote and encourage retention*
37 *of forests and forested landscapes.*

38 (d) *Create a funding source for the restoration of the state's*
39 *forested lands and promote restoration of fisheries and wildlife*
40 *habitat and improvement in water quality.*

1 (e) *Promote restoration and management of forested landscapes*
2 *consistent with the California Global Warming Solutions Act of*
3 *2006 (Division 25.5 (commencing with Section 38500) of the*
4 *Health and Safety Code).*

5 (f) *Promote transparency in regulatory costs and programs*
6 *through the creation of performance measures and accountability*
7 *for the state’s forest practice regulatory program and simplify the*
8 *collection and use of critical data to ensure consistency with other*
9 *pertinent laws and regulations.*

10 (g) *Identify and implement efficiencies in the regulation of*
11 *timber harvesting between state agencies.*

12 (h) *Modify current regulatory programs to incorporate, and*
13 *provide incentives for best practices, and develop standards or*
14 *strategies, where appropriate, to protect natural resources,*
15 *including the development of plans that address road management*
16 *and riparian function on an ownershipwide, watershedwide, or*
17 *districtwide scale.*

18 4629.3. (a) *The Timber Regulation and Forest Restoration*
19 *Fund is hereby created in the State Treasury. All revenues received*
20 *from the assessments imposed pursuant to Section 4629.5, less*
21 *amounts deducted for refunds and reimbursements, shall be*
22 *deposited into the fund.*

23 (b) *Unless the context requires otherwise, the following*
24 *definitions shall apply to this article:*

25 (1) *“Board” means the State Board of Forestry and Fire*
26 *Protection.*

27 (2) *“Department” means the Department of Forestry and Fire*
28 *Protection.*

29 (3) *“Engineered wood product” means a building product,*
30 *including, but not limited to, veneer-based sheeting material,*
31 *plywood, laminated veneer lumber (LVL), parallel-laminated*
32 *veneer (PLV), laminated beams, I-joists, edge-glued material, or*
33 *composite material such as cellulosic fiberboard, hardboard,*
34 *decking, particleboard, waferboard, flakeboard, oriented strand*
35 *board (OSB), or any other panel or composite product where wood*
36 *is a component part, that is identified in regulations adopted by*
37 *the board pursuant to Section 4629.4. For purpose of this*
38 *paragraph, an “engineered wood product” shall only include*
39 *products that consist of at least 10 percent wood.*

1 (4) “Fund” means the Timber Regulation and Forest
2 Restoration Fund.

3 (5) “Lumber product” means a product in which wood or wood
4 fiber is a principal component part, including, but not limited to,
5 a solid wood product, or an engineered wood product, that is
6 identified in regulations adopted by the board pursuant to Section
7 4629.4. “Lumber product” does not include furniture, paper
8 products, indoor flooring products such as hardwood or laminated
9 flooring, bark or cork products, firewood, or other products not
10 typically regarded as lumber products.

11 (6) “Principal component part” means 10 percent of the total
12 content by volume.

13 (7) “Qualified nonprofit organization” means any nonprofit
14 public benefit corporation formed pursuant to the Nonprofit
15 Corporation Law (Division 2 (commencing with Section 5000) of
16 Title 1 of the Corporations Code) qualified to do business in
17 California and qualified for exempt status under Section 501(c)(3),
18 501(c)(4), or 501(c)(5) of the Internal Revenue Code.

19 (8) “Recognized tribe” means those entities recognized as
20 eligible to receive service from the United States Bureau of Indian
21 Affairs, as listed in the Federal Register, and those tribes
22 designated in the list of nonrecognized tribes for California by the
23 Native American Heritage Commission.

24 (9) “State responsibility area” means those areas for which the
25 state has primary fire protection responsibility, as designated by
26 the board in accordance with Section 4125.

27 4629.4. (a) On or before October 1, 2012, the board shall
28 adopt a regulation that interprets and makes specific the lumber
29 products and engineered wood products that the board determines
30 shall be subject to the lumber products assessment imposed
31 pursuant to Section 4629.5. The board shall annually update the
32 regulation. The lumber products identified in the annually updated
33 regulation that is adopted shall become subject to the assessment
34 imposed pursuant to Section 4629.5 on the first day of the calendar
35 quarter commencing more than 60 days after adoption of the
36 updated regulation.

37 (b) The board shall adopt any regulations or emergency
38 regulations necessary to implement the provisions of this article
39 in accordance with the rulemaking provisions of the Administrative
40 Procedure Act (Chapter 3.5 (commencing with Section 11340) of

1 *Part 1 of Division 3 of title 2 of the Government Code). The board*
2 *may readopt any emergency regulation authorized by this section*
3 *that is the same as or substantially equivalent to an emergency*
4 *regulation previously adopted under this section. The initial*
5 *adoption of emergency regulations and the one readoption of*
6 *emergency regulations authorized by this subdivision shall be*
7 *deemed an emergency and necessary for the immediate*
8 *preservation of the public peace, health and safety, or general*
9 *welfare. The initial emergency regulation and the one readoption*
10 *of an emergency regulation authorized by this section shall be*
11 *exempt from review by the Office of Administrative Law. The initial*
12 *emergency regulation and the one readoption of an emergency*
13 *regulations authorized by this section shall be submitted to the*
14 *Office of Administrative Law for filing with the Secretary of State*
15 *and each shall remain in effect for no more than 180 days, by*
16 *which time final regulations may be adopted. The lumber products*
17 *and engineered wood products identified in the regulation adopted*
18 *shall become subject to the assessment imposed pursuant to Section*
19 *4629.5, commencing January 1, 2013.*

20 *4629.5. (a) (1) On and after January 1, 2013, there is hereby*
21 *imposed an assessment on a person who purchases a lumber*
22 *product or an engineered wood product for the storage, use, or*
23 *other consumption in this state, at the rate of 1 percent of the sales*
24 *price.*

25 *(2) A retailer shall charge the person the amount of the*
26 *assessment as a charge that is separate from, and not included in,*
27 *any other fee, charge, or other amount paid by the purchaser.*

28 *(3) The retailer shall collect the assessment from the person at*
29 *the time of sale, and may retain an amount equal to the amount of*
30 *reimbursement, as determined by the State Board of Equalization*
31 *pursuant to regulations, for any costs associated with the collection*
32 *of the assessment, to be taken on the first return or next consecutive*
33 *returns until the entire reimbursement amount is retained. For*
34 *purposes of this paragraph, the State Board of Equalization may*
35 *adopt emergency regulations pursuant to Section 11346.1 of the*
36 *Government Code. The adoption of any regulation pursuant to*
37 *this paragraph shall be deemed to be an emergency and necessary*
38 *for the immediate preservation of the public peace, health, and*
39 *safety, and general welfare.*

1 (b) The retailer shall separately state the amount of the
2 assessment imposed under this section on the sales receipt given
3 by the retailer to the person at the time of sale.

4 (c) The State Board of Equalization shall administer and collect
5 the assessment imposed by this section pursuant to the Fee
6 Collection Procedures Law (Part 30 (commencing with Section
7 55001) of Division 2 of the Revenue and Taxation Code) with those
8 changes as may be necessary to conform to the provisions of this
9 article. For purposes of this section, the references in the Fee
10 Collection Procedures Law to “fee” shall include the assessment
11 imposed by this section.

12 (d) (1) The assessment is required to be collected by a retailer
13 and any amount unreturned to the person who paid an amount in
14 excess of the assessment, but was collected from the person under
15 the representation by the retailer that it was owed as an
16 assessment, constitutes debts owed by the retailer to this state.

17 (2) Every person who purchases a lumber product or an
18 engineered wood product for storage, use, or other consumption
19 in this state is liable for the assessment until it has been paid to
20 this state, except that payment to a retailer relieves the person
21 from further liability for the assessment. Any assessment collected
22 from a person that has not been remitted to the State Board of
23 Equalization shall be a debt owed to the state by the retailer
24 required to collect and remit the assessment. Nothing in this part
25 shall impose any obligation upon a retailer to take any legal action
26 to enforce the collection of the assessment imposed by this section.

27 (e) Except as provided in paragraph (3) of subdivision (a), the
28 State Board of Equalization may prescribe, adopt, and enforce
29 regulations relating to the administration and enforcement of this
30 section, including, but not limited to, collections, reporting,
31 refunds, and appeals.

32 (f) (1) The assessment imposed by this section is due and
33 payable to the State Board of Equalization quarterly on or before
34 the last day of the month next succeeding each quarterly period.

35 (2) On or before the last day of the month following each
36 quarterly period, a return for the preceding quarterly period shall
37 be filed with the State Board of Equalization using electronic
38 media, in the form prescribed by the State Board of Equalization.
39 Returns shall be authenticated in a form or pursuant to methods,
40 as prescribed by the State Board of Equalization.

1 (g) For purposes of this section, all of the following shall apply:

2 (1) "Purchase" has the same meaning as that term is defined
3 in Section 6010 of the Revenue and Taxation Code.

4 (2) "Retailer" has the same meaning as that term is defined in
5 Section 6015 of the Revenue and Taxation Code.

6 (3) "Sales price" has the same meaning as that term is defined
7 in Section 6011 of the Revenue and Taxation Code.

8 (4) "Storage" has the same meaning as that term is defined in
9 Section 6008 of the Revenue and Taxation Code.

10 (5) "Use" has the same meaning as that term is defined in
11 Section 6009 of the Revenue and Taxation Code.

12 (h) (1) Every person required to pay the assessment imposed
13 under this article shall register with the State Board of
14 Equalization. Every application for registration shall be made in
15 a form prescribed by the State Board of Equalization and shall set
16 forth the name under which the applicant transacts or intends to
17 transact business, the location of his or her place or places of
18 business, and such other information as the State Board of
19 Equalization may require. An application for registration shall be
20 authenticated in a form or pursuant to methods as may be
21 prescribed by the State Board of Equalization.

22 (2) An application for registration filed pursuant to this section
23 may be filed using electronic media as prescribed by the State
24 Board of Equalization.

25 (3) Electronic media includes, but is not limited to, computer
26 modem, magnetic media, optical disk, facsimile machine, or
27 telephone.

28 4629.6. Moneys deposited in the fund shall, upon appropriation
29 by the Legislature, only be expended for the following purposes:

30 (a) To reimburse the State Board of Equalization for its
31 administrative costs associated with the administration, collection,
32 audit, and issuance of refunds related to the lumber products and
33 engineered wood assessment established pursuant to Section
34 4629.5.

35 (b) To pay refunds issued pursuant to Part 30 (commencing
36 with Section 55001) of Division 2 of the Revenue and Taxation
37 Code.

38 (c) To support the activities and costs of the department, the
39 Department of Conservation, the Department of Fish and Game,
40 the State Water Resources Control Board, and regional water

1 *quality control boards associated with the review of projects or*
2 *permits necessary to conduct timber operations. On or after July*
3 *1, 2013, except for fees applicable for fire prevention or protection*
4 *within state responsibility area classified lands or timber yield*
5 *assessments, no currently authorized or required fees shall be*
6 *charged by the agencies listed in this subdivision for activities or*
7 *costs associated with the review of a project, inspection and*
8 *oversight of projects, and permits necessary to conduct timber*
9 *operations of those departments and boards.*

10 *(d) For transfer to the department's Forest Improvement*
11 *Program, upon appropriation by the Legislature, for forest*
12 *resources improvement grants and projects administered by the*
13 *department pursuant to Chapter 1 (commencing with Section 4790)*
14 *and Chapter 2 (commencing with Section 4799.06) of Part 2 of*
15 *Division 4.*

16 *(e) To fund existing restoration grant programs.*

17 *(f) To the department, upon appropriation by the Legislature,*
18 *for fuel treatment grants and projects pursuant to authorities under*
19 *the Wildland Fire Protection and Resources Management Act of*
20 *1978 (Article 1 (commencing with Section 4461) of Chapter 7 of*
21 *Part 2 of Division 4).*

22 *(g) To the department, upon appropriation by the Legislature,*
23 *to provide grants to local agencies responsible for fire protection,*
24 *qualified nonprofits, recognized tribes, local and state*
25 *governments, and resources conservation districts, undertaken on*
26 *a state responsibility area (SRA) or on wildlands not in an SRA*
27 *that pose a threat to the SRA, to reduce the costs of wildland fire*
28 *suppression, reduce greenhouse gas emissions, promote adaptation*
29 *of forested landscapes to changing climate, improve forest health,*
30 *and protect homes and communities.*

31 *4629.7. All grants made pursuant to subdivisions (f) and (g)*
32 *of Section 4629.6 shall fund activities that do any of the following,*
33 *in order of priority:*

34 *(a) Improve forest health.*

35 *(b) Promote climate mitigation strategies included in the*
36 *California Global Warming Solutions Act of 2006 (Division 25.5*
37 *(commencing with Section 38500) of the Health and Safety Code)*
38 *scoping plan for the forest sector, as adopted by the State Air*
39 *Resources Control Board, or as amended through subsequent*
40 *actions of that board.*

1 (c) *Promote climate change adaptation strategies for the forest*
2 *sector, as adopted by the Natural Resources Agency in the*
3 *California Climate Adaptation Strategy.*

4 4629.8. (a) *Funds deposited in the Timber Regulation and*
5 *Forest Restoration Fund shall be appropriated in accordance with*
6 *the following priorities:*

7 (1) *First priority shall be for funding associated with the*
8 *administration and delivery of responsibilities identified in*
9 *subdivisions (a) to (c), inclusive, of Section 4629.6.*

10 (2) *Only after paragraph (1) is funded, the second priority shall*
11 *be, if deposits are sufficient in future years to maintain the fund,*
12 *by 2016, at a minimum reserve of four million dollars (\$4,000,000),*
13 *for use and appropriation by the Legislature in years during which*
14 *revenues to the account are projected to fall short of the ongoing*
15 *budget allocations for support of the activities identified in*
16 *paragraph (1).*

17 (3) *Only after paragraphs (1) and (2) are funded, the third*
18 *priority shall be in support of activities designated in subdivisions*
19 *(d) and (e) of Section 4629.6.*

20 (4) *Only after paragraphs (1), (2), and (3) are funded, the fourth*
21 *priority shall be to support the activities designated in subdivisions*
22 *(f) and (g) of Section 4629.6.*

23 (b) *No funds shall be used to pay for or reimburse any*
24 *requirements, including mitigation of a project proponent or*
25 *applicant, as a condition of any permit.*

26 4629.9. (a) *On or before January 10, 2013, and on each*
27 *January 10 thereafter in conjunction with the 2014–15 Governor’s*
28 *Budget and Governors’ Budgets thereafter, the Secretary of the*
29 *Natural Resources Agency, in consultation with the Secretary for*
30 *Environmental Protection, shall submit to the Joint Legislative*
31 *Budget Committee a report on the activities of all state*
32 *departments, agencies, and boards relating to forest and*
33 *timberland regulation. This report shall include, at a minimum,*
34 *all of the following:*

35 (1) *A listing, by organization, of the proposed total costs*
36 *associated with the review, approval, and inspection of timber*
37 *harvest plans and associated permits.*

38 (2) *The number of timber harvest plans, and acreage covered*
39 *by the plans, reviewed in the 2011–12 fiscal year, or the most*
40 *recent fiscal year.*

1 (3) *To the extent feasible, a listing of activities, personnel, and*
2 *funding, by department, for the forest practice program for*
3 *2012–13, or the most recent fiscal year, and the preceding 10 fiscal*
4 *years.*

5 (4) *The number of staff in each organization dedicated fully or*
6 *partially to (A) review of timber harvest plans, and (B) other*
7 *forestry-related activities, by geographical location in the state.*

8 (5) *The costs of other forestry-related activities undertaken.*

9 (6) *A summary of any process improvements identified by the*
10 *administration as part of ongoing review of the timber harvest*
11 *process, including data and technology improvement needs.*

12 (7) *Workload analysis for the forest practice program in each*
13 *organization.*

14 (8) *In order to assess efficiencies in the program and the*
15 *effectiveness of spending, a set of measures for, and a plan for*
16 *collection of data on, the program, including, but not limited to:*

17 (A) *The number of timber harvest plans reviewed.*

18 (B) *Average time for plan review.*

19 (C) *Number of field inspections per inspector.*

20 (D) *Number of acres under active plans.*

21 (E) *Number of violations.*

22 (F) *Evaluating ecological performance.*

23 (b) *A report required to be submitted pursuant to subdivision*
24 *(a) shall be submitted in compliance with Section 9795 of the*
25 *Government Code.*

26 4629.10. (a) *No later than March 1, 2014, as part of the*
27 *2014–15 budget process, the Secretary of the Natural Resources*
28 *Agency, in conjunction with the Secretary for Environmental*
29 *Protection, shall submit a report to the Joint Legislative Budget*
30 *Committee and to the relevant legislative policy committees,*
31 *including a review of the report required to be submitted to the*
32 *Joint Legislative Budget Committee pursuant to Section 4629.9.*
33 *This review shall include recommendations to the budget*
34 *committees on the future funding of the program, the adequacy of*
35 *the current regulatory programs, and suggestions for policy*
36 *recommendations that will improve this chapter and its*
37 *implementing regulations, and other aspects of the laws governing*
38 *timber harvesting in the state.*

1 (b) (1) A report required to be submitted pursuant to subdivision
2 (a) shall be submitted in compliance with Section 9795 of the
3 Government Code.

4 (2) Pursuant to Section 10231.5 of the Government Code, this
5 section is repealed as of January 1, 2018.

6 4629.11. (a) Notwithstanding any other law, the revenues in
7 any fiscal year may be accounted for on an accrued basis. The
8 department may borrow against anticipated revenues to the fund
9 to meet cashflow needs.

10 (b) Notwithstanding any other law, a loan obtained pursuant
11 to subdivision (a) shall be interest free. The department shall repay
12 the loan in a timely manner from reserves received into the fund.

13 4629.12. (a) The Director of Finance shall authorize a loan,
14 from the General Fund to the fund, to implement the activities
15 described in Section 4629.6.

16 (b) Any loan made pursuant to this section shall be repaid, with
17 interest at the pooled money investment rate, from revenues from
18 the assessment imposed pursuant to Section 4629.5.

19 4629.13. Notwithstanding any other law, the Controller may
20 use the moneys in the fund for cashflow loans to the General Fund,
21 as provided in Sections 16310 and 16381 of the Government Code.
22 Any such loan shall be exempt from paragraph (2) of subdivision
23 (b) of Section 16310 of the Government Code. Interest shall be
24 paid on all moneys loaned to the General Fund and shall be
25 computed at a rate determined by the Pooled Money Investment
26 Board to be the current earning rate of the fund from which the
27 money is loaned. This section does not authorize any transfer that
28 would interfere with the carrying out of the object for which these
29 funds were created.

30 SEC. 4. The sum of one million five hundred thousand dollars
31 (\$1,500,000) is hereby appropriated from the Timber Regulation
32 and Forest Restoration Fund, created pursuant to subdivision (a)
33 of Section 4629.3 of the Public Resources Code, to the Department
34 of Fish and Game to be used for the purposes of supporting the
35 department's review of timber harvest plans.

36 SEC. 5. No reimbursement is required by this act pursuant to
37 Section 6 of Article XIII B of the California Constitution because
38 the only costs that may be incurred by a local agency or school
39 district will be incurred because this act creates a new crime or
40 infraction, eliminates a crime or infraction, or changes the penalty

1 *for a crime or infraction, within the meaning of Section 17556 of*
2 *the Government Code, or changes the definition of a crime within*
3 *the meaning of Section 6 of Article XIII B of the California*
4 *Constitution.*

5 *SEC. 6. This act is an urgency statute necessary for the*
6 *immediate preservation of the public peace, health, or safety within*
7 *the meaning of Article IV of the Constitution and shall go into*
8 *immediate effect. The facts constituting the necessity are:*

9 *In order that statutory changes are adopted that are necessary*
10 *to address forest resource management needs in the state in the*
11 *coming years at the earliest possible time, it is necessary that this*
12 *act take effect immediately.*

13 ~~SECTION 1. It is the intent of the Legislature to enact statutory~~
14 ~~changes relating to the Budget Act of 2012.~~